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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re :
: **Chapter 11 Case No.**
LEHMAN BROTHERS HOLDINGS INC., et al. : **08-13555 (JMP)**
: **Debtors.** : **(Jointly Administered)**
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**APPELLANT SWEDBANK AB (PUBL)'S AMENDED DESIGNATION OF
RECORD AND STATEMENT OF ISSUES ON APPEAL
PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 8006**

Swedbank AB (publ) ("Swedbank"), pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, by and through its undersigned counsel, hereby designates the issues and record presented on appeal (the "Designation of Record") to the United States District Court for the Southern District of New York from the Memorandum Decision [Docket No. 8800] and Order [Docket No. 8806] granting the Debtors' Motion for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB entered in the above-referenced chapter 11 cases by the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") by the Honorable James M. Peck on May 5, 2010:

STATEMENT OF ISSUES ON APPEAL

- I. Where the Safe Harbor Provisions arising under Bankruptcy Code sections 560 and 561 mandate that the exercise by any swap participant of “any contractual right” to offset or net “arising under or in connection with the termination, liquidation, or acceleration” of the swap agreements “shall not be stayed, avoided or otherwise limited by operation of any provision of [the Bankruptcy Code]”, may an ISDA Master Agreement party exercise retention and setoff rights against a post-petition deposit into an account of a Chapter 11 debtor?
- II. In light of the Safe Harbor Provisions of sections 560 and 561, did the Bankruptcy Court err in its conclusion that the existence of the automatic stay under Bankruptcy Code Section 362 rendered a deposit account of the Chapter 11 Debtor unavailable for both retention and setoff by a Safe Harbor swap counterparty as to post-petition deposits into the Chapter 11 Debtor’s account?
- III. In light of the Safe Harbor Provisions of sections 560 and 561, did the Bankruptcy Court err in its conclusion that the existence of setoff limitations under Section 553(a) rendered a deposit account of the Chapter 11 Debtor unavailable for both retention and set off by a Safe Harbor swap counterparty as to post-petition deposits into the Chapter 11 Debtor’s account?

**AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON
APPEAL**

Swedbank hereby designates the following items to be included in the record on appeal:¹

| Designation Number | Filing Date | Claim Number/Docket Number ² | Description |
|--------------------|-------------|---|--|
| 1 | 1/22/2010 | 6734 | Motion to Impose Automatic Stay: <i>Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> filed by Richard P. Krasnow on behalf of Lehman Brothers Holdings Inc.. with hearing to be held on 2/10/2010 at 10:00 AM at Courtroom 601 (JMP) Objections due by 2/3/2010, (Krasnow, Richard) (Entered: 01/22/2010) |
| 2 | 1/22/2010 | 6736 | Declaration of Adrian Teng in Support of <i>Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) <u>6734</u>) filed by Richard P. Krasnow on behalf of Lehman Brothers Holdings Inc.. (Krasnow, Richard) (Entered: 01/22/2010) |
| 3 | 2/03/2010 | 6976 | Response <i>Swedbank's Objection to Debtors' Motion Pursuant to Section 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) <u>6734</u>) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). with hearing to be held on 2/10/2010 at 10:00 AM at Courtroom 601 (JMP) (Montgomery, Claude) (Entered: 02/03/2010) |

¹ Each designated item shall also include any exhibits, attachments, declarations and affidavits related to such item.

² All docket items refer to Case No. 08-13555.

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| 4 | 2/03/2010 | 6978 | <i>Affidavit Declaration of Johan Stenberg in Support of Swedbank's Objection to Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) 6976) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D# 5 Exhibit E# 6 Exhibit F# 7 Exhibit G)(Montgomery, Claude) (Entered: 02/03/2010) |
| 5 | 4/09/2010 | 8196 | <i>Response: Debtors' Reply in Further Support of Debtors Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) 6734 , 6976) filed by Richard P. Krasnow on behalf of Lehman Brothers Holdings Inc.. (Krasnow, Richard) (Entered: 04/09/2010) |
| 6 | 4/16/2010 | 8490 | Transcript regarding Hearing Held on April 14, 2010 10:03 AM Remote electronic access to the transcript is restricted until 7/15/2010. (Richards, Beverly) (Entered: 04/20/2010) |
| 7 | 4/22/2010 | 8564 | <i>Motion for Stay Pending Appeal Swedbank's Memorandum of Law Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> filed by Claude D. Montgomery on behalf of Swedbank AB (publ.) with hearing to be held on 5/6/2010 at 01:30 PM at Courtroom 601 (JMP) Responses due by 4/30/2010, (Attachments: # 1 Exhibit A)(Montgomery, Claude) (Entered: 04/22/2010) |

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| 8 | 4/22/2010 | 8567 | <i>Affidavit Declaration of Johan Stenberg in Support of Swedbank's Motion Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB (related document(s) 8564) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D)(Montgomery, Claude) (Entered: 04/22/2010)</i> |
| 9 | 4/22/2010 | 8590 | Order to Show Cause Signed on 4/22/2010 for Stay Pending Appeal for the Order Granting the Debtors' Motion Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB. A Hearing Will Be Held On 5/6/2010 at 1:30 PM in Courtroom 601. (related document(s) 8564) (Nulty, Lynda) (Entered: 04/22/2010) |
| 10 | 4/30/2010 | 8740 | <i>Objection: Debtors' Objection to Swedbanks Motion Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Proposed Order Granting the Debtors Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB (related document(s) 8564) filed by Richard P. Krasnow on behalf of Lehman Brothers Holdings Inc.. (Krasnow, Richard) (Entered: 04/30/2010)</i> |
| 11 | 4/30/2010 | 8746 | <i>Statement / Joinder Of Official Committee Of Unsecured Creditors In Debtors' Objection To Swedbank's Motion Pursuant To Fed. R. Bankr. P. 8005 For Stay Pending Appeal Of The Order Granting The Debtors' Motion Pursuant To Sections 105(a) And 362 Of The Bankruptcy Code Enforcing The Automatic Stay Against And Compelling Payment Of Post-Petition Funds By Swedbank AB (related document(s) 8740) filed by Dennis F. Dunne on behalf of Official Committee of Unsecured Creditors. with hearing to be held on 5/6/2010 at 01:30 PM at Courtroom 601 (JMP) (Dunne, Dennis) (Entered: 04/30/2010)</i> |

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| 12 | 5/04/2010 | 8782 | <p><i>Response Reply in Support of Swedbank's Motion to Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) 8740) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). with hearing to be held on 5/6/2010 at 01:30 PM at Courtroom 601 (JMP) (Montgomery, Claude) (Entered: 05/04/2010)</p> |
| 13 | 5/04/2010 | 8783 | <p><i>Affidavit Supplemental Declaration of Johan Stenberg in Support of Swedbank's Motion Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) 8564) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Montgomery, Claude) (Entered: 05/04/2010)</p> |
| 14 | 5/05/2010 | 8791 | <p><i>Certificate of Service of Swedbank's Memorandum of Law Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB (publ.) and Declaration of Johan Stenberg in Support of Swedbank's Motion for Stay Pending Appeal</i> (related document(s) 8564) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Montgomery, Claude) (Entered: 05/05/2010)</p> |

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| 15 | 5/05/2010 | 8792 | <i>Certificate of Service of Reply in Support of Swedbank's Motion to Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB (publ.) and Supplemental Declaration of Johan Stenberg in Support of Swedbank's Motion for Stay Pending Appeal (related document(s) 8782) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Montgomery, Claude) (Entered: 05/05/2010)</i> |
| 16 | 05/05/2010 | 8800 | Order Signed on 5/5/2010 Granting the Debtor's Motion for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB. (Related Doc # 6734) (Nulty, Lynda) (Entered: 05/05/2010) |
| 17 | 05/05/2010 | 8806 | Memorandum Decision Signed on 5/5/2010 Granting the Debtors' Motion for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB. (Nulty, Lynda) (Entered: 05/05/2010) |
| 18 | 5/06/2010 | 8820 | <i>Affidavit Notice of Filing of Corrected Supplemental Declaration of Johan Stenberg in Support of Swedbank's Motion Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB (related document(s) 8564) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Attachments: # 1 Exhibit A)(Montgomery, Claude) (Entered: 05/06/2010)</i> |

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| 19 | 5/06/2010 | 8831 | Notice of Appeal of <i>Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) <u>8800</u>) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Attachments: # <u>1</u> Exhibit A)(Montgomery, Claude) (Entered: 05/06/2010) |
| 20 | 5/06/2010 | 8844 | Order Signed on 5/6/2010 Denying Swedbank's Motion for Stay Pending Appeal of the Proposed Order Granting the Debtors' Motion Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB. (Related Doc # <u>8564</u>) (Nulty, Lynda) (Entered: 05/06/2010) |
| 21 | 5/07/2010 | 8920 | Certificate of Service of <i>Corrected Supplemental Declaration of Johan Stenberg in Support of Swedbank's Motion Pursuant to Fed. R. Bankr. P. 8005 for Stay Pending Appeal of the Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) <u>8820</u>) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Montgomery, Claude) (Entered: 05/07/2010) |
| 22 | 5/07/2010 | 8921 | Certificate of Service of <i>Notice of Appeal of Order Granting the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB</i> (related document(s) <u>8831</u>) filed by Claude D. Montgomery on behalf of Swedbank AB (publ.). (Montgomery, Claude) (Entered: 05/07/2010) |

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| 23 | 5/06/2010 | 9060 | Transcript regarding Hearing Held on May 6, 2010 1:32 PM RE: Swedbank's Memorandum of Law for Stay Pending Appeal of the Order Granting the Debtors' Motion Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by Swedbank AB. (Richards, Beverly) (Entered: 05/17/2010) |
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Dated: New York, New York
May 27, 2010

SALANS LLP

By: /s/ Claude D. Montgomery
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